

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Proposing rule making related to residential care facilities and providing an opportunity for public comment

The Inspections and Appeals Department hereby proposes to amend Chapter 63, “Residential Care Facility—Three- to Five-Bed Specialized License,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

Iowa Code section 135C.2(5) requires the Department to establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with an intellectual disability, chronic mental illness, developmental disability, or brain injury, and which contain five or fewer residents. Iowa Code section 135C.2(5) also requires the Department to include a provision requiring such a facility to be located in an area zoned for single- or multiple-family housing or in an unincorporated area and to be constructed in compliance with applicable local requirements and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents. The proposed amendments adopt this provision.

The proposed amendments require facility personnel to be awake at all times while on duty. This proposed amendment is consistent with the personnel requirements for other types of residential care facilities.

The proposed amendments remove the requirement that a person shall successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination prior to taking a Department-approved medication aide course. The Department-approved medication aide course was previously revised, which rendered this requirement unnecessary, and this proposed amendment aligns with current Department practice.

The proposed amendments remove the requirement that facilities within the special classification abide by Chapter 60, “Minimum Physical Standards for Residential Care Facilities.” Facilities within this special classification have not previously had to abide by Chapter 60, and this proposed amendment aligns with current Department practice.

Finally, the proposed amendments update the language used in expressing bedroom requirements to maintain consistency with the Department’s rules related to other types of facilities that are substantively identical. The proposed amendments do not substantively change the bedroom requirements for this special classification.

The proposed amendments were reviewed by the State Board of Health at its May 8, 2019, meeting.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 25, 2019. Comments should be directed to:

Deborah Svec-Carstens
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319-0083
Email: deborah.svec-carstens@dia.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **63.3(1)“b”** as follows:

b. Meet all of the rules, regulations, and standards contained in this chapter and in 481—~~Chapters Chapter 50 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.~~

ITEM 2. Amend paragraph **63.8(5)“b”** as follows:

b. Personnel in a specialized residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be ~~up and dressed when residents are awake~~ at all times while on duty. (I, II, III)

ITEM 3. Amend paragraph **63.16(3)“d”** as follows:

d. Prior to taking a department-approved medication aide course, the person shall:

~~(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)~~

~~(2) Have have~~ a letter of recommendation for admission to the medication aide course from the employing facility. (III)

ITEM 4. Adopt the following new paragraph **63.35(1)“d”**:

d. The facility shall be located in an area zoned for single- or multiple-family housing or in an unincorporated area and shall be constructed in compliance with applicable local housing codes and rules adopted for this classification of license by the state fire marshal. (II, III)

ITEM 5. Amend paragraph **63.35(4)“a”** as follows:

a. Each resident shall be provided with a ~~standard, single, or twin~~ twin-sized or larger bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)